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AN  
ACCOUNT  
OF THE  
PROCEEDINGS  
OF THE

*Right Reverend Father in God*

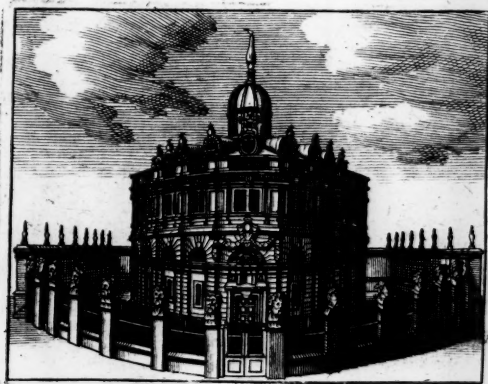
JONATHAN  
*Lord Bishop of Exeter*

in his late Visitation of *Exeter* College  
in *Oxford*.

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The second Edition, to which is added the *Censure* of the  
*University of Oxford* upon the *Naked Gospell*.

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*Oxford*, Printed at the THEATER, 1690.

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James Hanning

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*An account of the Proceedings, &c.*

**T**HE Bishop of *Exeter* hath so tender a regard to the interest and reputation of all the Members of that College, with the protection whereof his Lordship is entrusted; that as he could not easily, without repeated provocation, be induc'd to pass *Sentence* against any of 'em; so he was not, without very great reluctancy, perswaded to allow a publication of his proceedings; since however it might vindicate his Lordship's *Justice*, it must at the same time expose those things to the eye of the world, which his *Charity* had much rather have conceal'd. But finding that his late Visitation has occasion'd abundance of discourse, and that reports have been generally made more according to the inclination of the Relator, than the truth of the matter, He is at length prevail'd upon both for his own and his Order's sake. to allow a plain and impartial *Narrative* of matter of *Fact*: wherein there are divers circumstances, which might have been fairly represented with great advantage on his Lordship's side; but he rather chooses to have a plain account, with Copies of *Authentick Vouchers* to confirm it, allowing no reflections but what *they* make,

and to leave the judgment upon the whole matter to the *indifferent Reader*.

I shall therefore endeavor in the following Report to imitate not only the *Justice* but the *Moderation* and *Temper* of his Lordship in his proceedings; I shall touch the offences of no man any farther than they justify his sentence; but confine my self to the evidence given before him; and neglect the great *advantage* of a *farther enquiry*.

To try *the merits* of this Cause there need no niceties of Law; The bare delating of such crimes as were complain'd of, was a sufficient cause of a *Visitation*: which had never been obstructed with such *open hostility*, and so much *unaccountable ill manners*, nor so wretched a *Plea* chosen as that to the *Jurisdiction* of an *Ordinary*, had there been any other way to divert an enquiry into those *actions*, which the Persons delated knew could neither be *deny'd* nor *defended*.

*The Punishments* have been so easy and moderate, that no man, besides the *Rector*, has so much as a colour of complaint. Many of those Gentlemen that abetted him are such, as the *Bishop* could with engag'd in a better cause, and such as I doubt not, will lay hold on that opportunity, which his *Lordship* has been pleas'd to afford 'em, of uniting them-selves to the founder part of the *Society*; and of owning that *Visitatorial* power, to which, after so favourable treatment, they are in *Gratitude* as well as *Justice* obliged to submit.

As to the *late Rector* himself, it is not much to be wonder'd



wonder'd at, if he still retain a place in the good opinion of some few, who mistake the merits of the cause, having implicitly receiv'd an account of the *Process* from those very persons who were lyable to the *Sentence*: But now when the charge and proofs are both made publick; when so many and *so great* offences appear so plain and undenyable; when the Visitor's enquiry has brought to light a secret practice, upon which the whole University has thought fit to pass so *Solemn* and so *Unanimous* a *Censure*; 'tis reasonable to believe that those only will *openly* defend his *Cause*, who *secretly* abett his *opinions*.

Having now said as much as I thought requisite by way of *Introduction*, I should next proceed to the *Visitation* it self; and recite the offences that went before it, the opposition that was made to it; the peaceable execution of it at last; and the just, and moderate sentences, that were pass'd in it. But since the exceptions of the *Rector* to the *Visitor's* Authority are chiefly grounded on some former procedures of his *Lordship* in Mr. *Colmer's* Appeal; I think it necessary to take the rise of this discourse, higher than I at first design'd; and in the following method, to give an impartial account,

1. *Of the Expulsion and Appeal of Mr. Colmer.*
2. *Of the Proceedings of the Bishop, and his Commissary upon the Appeal.*

3. *Of the Crimes of the Rector, and others, that occasion'd the General Visitation.*

4. *Of the General Visitation it self: of the Evidence there given; and of the Sentence there pronounc'd.*

Upon the *first head* it will appear, that, whether Mr. Colmer be innocent or not, the Bishop had such *Presumptive proofes* of his Innocence: as must in justice oblige him to receive his appeal; and to grant a *re-hearing*.

Upon the *second*, it will be evident, That the Bishop gave the Rector all imaginable advantage for the Conviction of Mr. Colmer; and consequently, That, if he be guilty, it is a *new crime of the Rector, and of him only*, that he is exempted from punishment.

Under the two *last heads*, The Offences charged upon the Rector, will be fully made out.

And, throughout the whole discourse, the grounds upon which the Visitor proceeded will be occasionally given; and the cavils of the Rector against his Authority will receive short, clear, and satisfactory answers.

# I *Concerning the Expulsion and Appeal of Mr. Colmer.*

Mr. Colmer was a Gentleman, whose demeanour in the College had formerly been such, that it much recommended him to the favor of the Rector, and his family. The Rector in a printed paper openly professes, that he *held a greater familiarity with him than is usual between the Rector, and a Junior Fellow*

*low of a College.* What were the secret springs either of this intimacy, or of distast afterwards, as things transacted in a family, we think it not fit to publish, but what appear'd above board was as follows.

About *December* then 1688, when *Sir Kingston* stood Candidate for a Chaplain-Fellowship; the *Rector* vehemently espous'd his interest, as knowing that he could afterwards command his Vote, and by it, (as he himself profess'd) *make the division of the College so equal*, that the sole absolute power of determination in all causes should fall upon *him-self*. And since, *Mr. Colmer*, being not ignorant of *Sir Kingston's* manners, and former demeanour in the College, nor insensible of the *Rector's* design in promoting him, thought it his duty to concur with many of the Fellows in opposing this Election; The *Rector* openly declar'd, *that he would upon that account compass Mr. Colmer's Expulsion*. In order to this, some moneths after, he charges him privatly with incontinence; and endeavours to frighten him into a resignation of his Fellowship. When that project fail'd and *Mr. Colmer* insisted on his *innocence*; and seem'd not at all apprehensive of any danger- on that account; The *Rector* accused him before the *Vice-Chancellor*; and procur'd *his* warrant to summon one *Smith* before him, and to take his depositions. The Testimony of *Smith* was so far from charging *Mr. Colmer*, that it wholly justify'd his innocence; and the other allegations of the *Rector* seem'd so trivial, and incoherent, that the *Vice-Chancellor* thought fit to dismiss the  
cause

cause. When this design therefore met with no better success than the other, the *Rector* desisted from the troublesome course of examining *Witnesses before a Magistrate*, and resolv'd on a more compendious method of expelling him by bringing the Cause *before himself*. Accordingly on Oct. 10<sup>th</sup>. 1689. The *Rector* call'd a meeting of the *seven Senior Fellows*, and told them that the occasion of it was a *business in which he was to act the part both of an Accuser, and a Judge*; and he might have added, of a *Witness* too: For, upon the Tryal, he accus'd Mr. *Colmer* of lying with one *Ann Sparrow*, who had lately been deliver'd of a Bastard: and for evidence, he took his *voluntary Oath*, that *Smith* after much importunity us'd with him in his Closet to confess at whose expence he maintain'd the Woman, desir'd *time to speak with his Friend*. This Friend, the *Rector* was resolv'd should be interpreted Mr. *Colmer*; and thence inferr'd that he maintain'd the Woman and was Father of the Child, tho' *Smith*, who appeared at the meeting, avow'd, that he knew no such thing of *him*; and that the *Rector* misrepresented his words; and mistook his meaning. Upon *no other Oath than this*, founded upon a false surmise, taken by *him*, who was his *Judge*, and professed himselfe his *Accuser*, Mr. *Colmer* was declar'd *legally convicted of incontinence*.

There were indeed other *Allegations* in this Cause; but those, bare *Allegations*, without proof; and not sufficient to justify the Charge, if they had been prov'd. It was *said* that the *Rector's* wife *said*, that a certain

tain maid *said* to her; That she had formerly *said* to another Woman, That Mr. *Colmer* was *uncivil* to her; But the Maid, that was *said* to have *said* this, though in Town, was not produc'd; and the Woman, who was *said* to have receiv'd the complaint, was there present, and *denied* it. Traditional stories, Hear-says and Reports were urg'd against him; but the authors of them, tho' Servants of the College; and subject to the Rector's Summons, were not call'd, nor produc'd. On the other side two of the Fellows attested upon Oath, That the party, which was with Child, not only acquitted Mr. *Colmer* before them, but own'd, that she had been dealt with to accuse him. Against this plain, and express evidence, and against the Testimony of *Smith*, who was said to be his Accuser, The equivocal expressions, general words, and frivolous discourse of some talkative Women, ill attested, without Oath, and at second hand, were receiv'd and credited; and upon *these Proofs*, and upon *this process only*, Mr. *Colmer* was expell'd; and *devested* of his *Free-hold*.

It is natural for men, that use *such process* as this, to shun a *re-hearing*; and therefore it is no wonder, if now the Rector pretended, That this his *interlocutory* sentence was *conclusive*; and *final*, and that Mr. *Colmer* was by Oath barr'd from any appeal to the *Visitor*. If the Statutes and the Oath, that was founded upon them, had been capable of such a sense, it would have been a great hardship on Mr. *Colmer*, who avow'd his own innocence, to have been necessarily expos'd either

to the scandal of *Fornication*, or to the guilt of *Perjury*. However he was resolv'd to consider his Oath, to undergo his misfortune, and to proceed no otherwise in his appeal, than it was permitted, and warranted by Statute. But, Upon the perusal of the Statutes; and the consideration of the evidence given against him; he was himself convinc'd; and was confirm'd in his opinion by Dr. *Bouchier*, Professor of the Civil-Law in *Oxford*; that he had free liberty; and just cause of appeal to the Visitor. The motives, that prevail'd with him to think so, were such as these.

1. That the Oath, <sup>a</sup> being *accessory* to the Statute, did only restrain those Persons from *vexatious appeals*, who were expell'd according to the *appointment and direction of the Statute*; and according to the *form* therein laid down, and *prescrib'd*.

2. That, (the Statute requiring <sup>b</sup> a *legal conviction*; and the Proofs in Mr. *Colmer's* Case being so far from making a legal conviction, that they were not sufficient to make a man of any reputation suspected) Mr. *Colmer* was *not Statutably Expell'd*, and consequently *not barr'd from appeal*.

3. That in the Oath it-self the word <sup>c</sup> *mea* shows

<sup>a</sup> See the Probationers Oath. Si contingat me (quod absit) juxta formam & exigentiam Statutorum, à prædicto Collegio, expelli seu amoveri &c. Nunquam &c.

<sup>b</sup> In the Statute, De Causis propter quas Scholares privari debeant. Siquis Scholarium vel Electorum; adulterii, incontinentiæ, hæresis pertinacis, homicidii voluntarii &c. legitime convictus fuerit; ipsum perpetuo exclusum &c. decernimus.

<sup>c</sup> Si contingat me posthac per Rectorem aut in hujusmodi interesse habentes, corrigi, puniri, aut à dicti Collegii sustentatione ejici, & expelli, excludi, privari, vel amoveri propter mea forsitan demerita, ipsum Rectorem &c. nunquam persequar; molestabo vel inquietabo, &c. quantumcunque alias mihi probitatis, & vitæ merita suffragentur.

plainly



plainly that the *Demerita* must be in a *true*, not in an *imputed sense*; as must the *alias probitatis merita* which are oppos'd to them; and therefore it follows; either that a Person innocent of the crime objected may *appeal*; or that he must be forc'd to own that by virtue of his Oath, whereof he is *not guilty*; which were great *impiety*.

4. That <sup>a</sup> it is the plain design of this Oath to secure the College from any *action at Law*, or any other disturbance *from abroad*; and that in the recital of the different appeals, and remedies, which are there prohibited, That of *appeal to the Visitor*, which was most obvious to be thought on, is not *expressly* mention'd nor forbidden: and therefore that those General words, may in an equitable sense be intended to restrain the party from all appeals to an *Extraneous*, not to a *domestick* Court; to one that is a *forraign* Judge, not to a *Visitor*, who is a *part*, and the *first Member*, of the *College*.

5. That these interpretations of the Oath ought to be receiv'd, as being most consonant to Law; and such as are least tending to establish *arbitrary power*; and to exclude *legal remedies* against wrong-doing.

Mr. Colmer therefore finding that he had liberty of

<sup>a</sup> Si- &c. Ipsum Rectorem, seu alias Personas, seu eorum aliquem occasione Expulsionis, vel correctionis hujusmodi nunquam persequar, molestabo, vel inquietabo; per me, alium, vel alios; seu ab aliis persequi, molestari, seu inquietari ea de causa, quantum in me fuerit, permitram: sed pure, sponte, simpliciter, & absolute omni actioni contra Rectorem, aut alios dicti Collegii Scholares, quomodolibet appellationi, & querelæ in ea parte faciendis; ac quorumcumque literarum impetrationi, precibus principum, Prælatorum, Procerum, Magnatum, & aliorum quorumcumque &c. renuncio. De Juramento Scholarium.

appeal from grievances; and knowing that none could receive his appeal, but the *Ordinary*; made his application to the Bishop of *Exeter*, *Succeſſor* of the Founder of that College, *Patron*, *Ordinary* and *Viſitor* thereof. He inſiſted much on his own innocence, reſented to his Lordſhip the injuſtice of the Rector's procedures, the invalidity of the evidence againſt him; and the credibility of the proofs offer'd in his favor. Among other things, he ſhew'd to his Lordſhip the *Affidavit* made by *Ann Sparrow*, the Mother of the Baſtard Child; who being put to her Oath before an Alderman of *Oxford*, acquitted Mr. *Colmer*; and nam'd the Perſon one *Roberts*, who had tempted her to accuſe him. His Lordſhip was farther inform'd, that a great part of the College were ſo ſenſible of the injuries done to him; and ſo much at variance with his judges on that account; that, without the *Ordinarie's* interpoſition, theſe differences could not probably be compos'd. And laſtly he beg'd of his Lordſhip to receive his appeal; to grant him a new hearing only; That ſo the proofs of his innocence, and his guilt might equally be produc'd; and, according to the juſt weight of either of them, the Sentence againſt him might be confirm'd or annull'd.

My Lord of *Exeter* had now a very difficult choice either of taking upon him a long, expenſive, and with-all an *invidious* trouble, or of neglecting his duty, and *hazarding the rights of his Succeſſors*. The contentious humour of the Rector, which in former inſtances had ſuffi-

sufficiently discover'd it-self, gave him prospect of opposition; and his Lordship was not insensible that the *Nature* of the Cause, which was brought before him, was capable of *misconstruction*. But these *Prudential* Dissuatives weigh'd not so much with him, as the stronger motives of *honour*, *justice*, and *conscience*, which induc'd him to receive the appeal. He was sworn to preserve the *rights* of his *See*; and this of receiving appeals and visiting *Exeter-College* was not only one of them, but so much the more necessary to be preserv'd, as his Lordship's *Diocefs* hath a more than ordinary relation to that College. He knew, that these *arbitrary*, and *illegal Methods*, however now supported by specious pretences, might easily on worse occasions be drawn into precedents; and might give colour for the usurpation of such an uncontrollable power, as neither was just nor fit for *such a Rector* to enjoy. And, as to this Case it-self, the dismissal of it by the *Vice-Chan*: the hasty, and unstatutable proceedings of the *Rector*, the resentments of part of the College on that account, the invalidity of the evidence against Mr. *Colmer*; and the contradictory testimonies of credible witnesses then and since offer'd, were sufficient pleas for a farther enquiry. Since therefore the Appeal was neither *frivolous* nor *vexatious*, his Lordship was convinc'd, that the admission of it was not a matter of *favor*, but *justice*; and that he, as *superior judge*, ought of *right*, and *equity* to receive it.

His Lordship was thus satisfy'd of the *justice* of the

Appeal; nor was he less convinc'd of *his power* of receiving it. He had good reason to think, that the Law, and the College Statutes supported this his authority; and the arguments, on which he chiefly grounded his opinion, are (for the satisfaction of others,) here recited, and made publick.

1. Since, as it is evident in this Case, A Fellow may Appeal; there must be a *competent Judge* of the Appeal; and not only no other immediate Judge, than the Bishop, can be assign'd; but *all other Judges* are, in causes relating to the College, expressly by Statute *excluded*.

2. The force of the word *Ordinarius* doth necessarily import *universality* of Jurisdiction; and therefore where no *intermedial* Jurisdiction is plac'd any where else, this, to prevent the defect of justice, must be *let in*.

3. Altho', by the Statutes, the Visitation of the whole College be restrain'd to *requisition*, or *five Years*; yet the words in the beginning of the Statute are general, and apt for an universal provision; and cannot be satisfied by a *Quinquennial Visitation* of 3 days; nor by one upon *requisition*; For there may be a *combination* of the majority of the Seniors, who only have power to desire it.

4. The Visitor was upon like reasons limited to a

<sup>a</sup> See the Statute concerning Visitation. Cui quidem Reverendo Patri, ac Deputato, ac *præterea nemini* tanquam Patrono, & *Ordinario* Visitatori, vigore præsentis Statuti plenam concedimus potestatem &c. *Et nulli alii*: ibid. &c.

<sup>b</sup> Patronos, & Visitatores relinquimus, ut ad alvearium conservandum *invigilent*; ut Statuta dicti Collegii firmiter observentur &c. See the Statute concerning Visitation.

Quinquennial as a Bishop to a Triennial Visitation; It was the only design of the Canon in one Case, and of the Statute in the other to prevent the Charge of *Proxies*, and *Sportulage*; and therefore as a Bishop when barr'd from Solemn, and costly Visitations, is not restrain'd from exercising the ordinary acts of Jurisdiction; so neither, during the *Quinquennial* Term, doth a Visitor's power cease; but upon Emergent occasions, in any grievance, or Appeal, without any Charge of the College, Exerts it self. The *General enquiry* into matters *undetected* in both cases is limited; but the *Cognizance* of matters *de-lated* to them is in neither restrained.

Upon the whole then, the Bishop was sensible, that Mr. Colmer having a presumptive grievance done him in a matter of a high nature, had free liberty of making an Appeal; that his Lordship, as *Ordinary*, was Judge of Appeals; and therefore since the Appeal was lawfull, and the matter of it just, and equitable; and the Cognizance of it lay before him, the *Visitor* as in justice, and prudence he ought, receiv'd and admitted it.

2. *Concerning the Proceedings of the Bishop and his Commissary upon the Appeal.*

There can be no greater Evidence of the calmness, and deliberation; which his Lordship us'd in his proceedings upon the *Appeal*, than the great distance of the dates between the *Appeal* and the *Commission*: the one presented on the 24 Oct. 1689. and the other was

was not granted before the 21 of *Feb.* following. Indeed his Lordship being willing, not to expose *the authority* of the Rector, at first try'd the mildest and most private methods of enquiring into this Cause, and adjusting it. He, by letter requir'd 2 of the Fellows, and as many more as the College should think fit, to attend him at *London*; and to bring with them a Copy of the proceedings against Mr. *Colmer*, and resolv'd, if any Evidence could be offer'd by them, to confirm the Sentence against him. This was so just; and so reasonable a demand from a Visitor, that I doubt not, the Reader will be surpriz'd to hear, that it met with a denial. A Letter, or rather, a Remonstrance was sent by the Rector; and in it the Visitor was acquainted, that no *Appeal* at all lay in this Case, and if any should lye, the matter would not fall under his but the *V. Ch's.* Cognizance. What slender grounds there were for these pretences, will hereafter appear; at present, I shall pursue the Relation of Matter of *Fact*; and give you the success of this answer. Upon this refusal, which was a new presumption of guilt; and upon the repeated instances of Mr. *Colmer*; his Lordship being, immediately after Parliament, oblig'd to attend the care of his *Diocese*, granted a Commission, and intrusted this Cause, to Dr. *Masters* his *Commissary*. If there was no other proof of his Lordship's impartiality in this affair, there never was a clearer instance of it given, than in one circumstance of *this Commission*. For tho' Mr. *Colmer's* Lawyers did, not without colour of Law, insist, that such Commissions



missions of rehearing ought to admitt of no more Evidence, than what, in the last instance, had occasion'd the first Sentence; yet because his Lordship had heard that the Rector had obtain'd some fresh proofs of Mr. *Colmer's* guilt, he was so kind to Dr. *Bury*, and so little favourable to the Appellant, that he gave the Rector leave to bring in what fresh matter he could to justify his former judgement. So that tho' the former Evidence had been defective; and the process upon it illegal and arbitrary yet was the Bishop resolv'd to expose the Appellant to any fresh charge; and not to suffer him, if guilty, to take any advantage of the Rector's hasty, and Exorbitant proceeding. This single consideration would acquit My Lord of *Exeter* from any partiality to Mr. *Colmer*; and yet, since this sometimes hath been, without any ground, objected to his Lordship, I shall take leave to anticipate one passage of the like nature in his General Visitation; and to give it place here. When the Bishop had by Letter, and Commission endeavour'd to Convi<sup>ct</sup> Mr. *Colmer*; and found at last, that the Rector, and his party would not be brought to accuse him; His Lordship in his Visitation, among the *Articles* exhibited to those Fellows, who own'd his Authority, made this One: *to discover to him any Person in the College who was guilty or suspected of Incontinence.* When in their answers no body was return'd suspected of that Crime; But the Rector himself; When no proofs against Mr. *Colmer* were produced; and two Material Affidavits which are here annex'd, were offer'd and

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taken

taken in his favor; His Lordship according to the Method of legal Proceſs was oblig'd to acquit, and reſtore him. But at the ſame time the Biſhop openly ſaid to him? *I was reſolv'd to have Expell'd you my ſelf at this Viſitation; If I could have by any means obtain'd legal proof of the crime alleg'd againſt You; And I do now admoniſh You to proſtrate Your ſelf before God with Prayers and the ſharpeſt repentance; If Your Conſcience upbraids You with the guilt of this Lewdneſs.*

After this ſhort digreſſion (which is a full anſwer to the Charge of partiality in his Lordſhip) it is neceſſary to return to the Commiſſion it ſelf, and to give an account of the Acts done by Dr. *Maſters* in purſuance of it. The Commiſſion it ſelf, being granted on Mr. *Colmer's* requeſt, was wholly reſtrain'd to his Cauſe: the *Pow'rs* given were of no farther Extent, than to the *Matter of the Appeal*; and the *Proceſs* upon it was ſuitable to the *Commiſſion*. Whether we look on the *Citations* that were ſerv'd, or the Judicial Acts, that were Executed; theſe limitations are every where ſtrictly obſerv'd: And more remarkably, when the *Sportulage*, which is due to the Viſitor's Commiſſary upon a Viſitation, was offer'd to Dr. *Maſters*, he refus'd the Preſent; and diſavow'd his coming upon a Viſitation, as he had before done in Court. So groundleſs altogether are their arguments, who maintain, that this particular enquiry into Mr. *Colmer's* Caſe only, and that *Civiliter*, can be intended or taken for the Viſitor's General, and Solemn Viſitation which is alwayes *Criminally*.

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When Dr. *Masters* came into the Chappel, he read his Commission; and acquainted the Rector with the liberty there given him, not only to justify his former proceedings against Mr. *Colmer*; but to give in any other fresh Evidence against the Party Expell'd. The Rector was so far from complying with these just and Equitable demands; that he openly denied the jurisdiction of that Court; and set ont the *bounds*, or rather the *infinity* of his own *uncontrolable power*. He said, *That he might Expell all his Fellows if he pleas'd; that he was absolute, and accountable to None; and that however arbitrary his Government might be, there was no remedy to be obtain'd against it.* At last having 3 days given him to make out his Charge against the Appellant, he made no other use of it, than to draw up two Protestations against the Visitor, with a postscript of Allegations against Mr. *Colmer*. In the first, it was alleged not only that no Appeal in General could lye in this Case; but that if any lay, the Visitor was not the *Competent Judge* of it, but the *Vice-Chancellor*. The Commissary was abundantly satisfi'd, as of the Lawfulness of the Appeal; so of the Jurisdiction of the Visitor in Cases of Appeal, and pronounced for the validitie of the same. He knew that the *Vice-Chancellor* (whose right he would have been very tender of) neither had any title to the Cognizance of this Case, nor laid claim to any. 'Tis true indeed, that by the Rector's Oath, if there be any strife or discord between him and his Fellows, he is oblig'd to stand to the Arbitrement of the *Chancellor*, or in his absence, of the *Vice-Chancellor of Oxford*.

But 1 Since no Jurisdiction is given to the *Vice-Chancellor* in the Statutes over the Fellows they are not oblig'd to own him as *Judge*; But the Rector only is bound to submit to him, as *Arbitrator*. The Fellows therefore must not necessarily have recourse to him; but, upon recourse had, the Rector is sworn not to decline his decision.

2 That Part of the Oath extends to those private Contests which the Rector shall have with the Fellows in his Personal Capacity agreeable to the Law of the *University*; but not to those that shall arise, when he acts *Collegiately* in Concurrence with the Majority of the *Seniors*. In the one Case, this intermedial *arbitrement*, for the ease of the Visitor and of the Fellows, is allow'd: and the Fellows have the Security of the Rector's Oath for his *acquiescence*. In the other, the Cause is immediately devolv'd to the Ordinary.

3 At the hearing of this Cause, the Rector expressly deny'd, that the *Vice-Chancellor*, or any other ought to intermeddle in it.

This, and this only was the Exception taken to the Jurisdiction; nor were the Allegations against the Appellant more Weighty or Material. The crime of *Incontinence* in General was objected to him; and some *Collateral* circumstances, which should make out the Charge, were recited, and tender'd to the *Commissary*. But when *Proof* of them was requir'd from the Rector; it was answer'd that he *was not oblig'd to give* it; When a *Lawful* Cause of Expulsion was insisted on, it was pretended, that a *reasonable* Cause was sufficient, and when a reasonable Cause was

was to be defined, it was such as the Rector and the majority of the 7 seniors should *think* to be *reasonable*.

The Commissary was sensible; That a legal conviction must be founded on such evidence, as is agreeable to the rules of law, and *justice*; and that an uncontrollable power of judging that to be evidence, which is not so, is equivalent to an arbitrary power of expelling men without evidence. And therefore since there was no other evidence of the Rector's *despotick*, and *absolute* power, but his own allegation; since there was no cause of the Appellant's expulsion given; and no proof of any crime so much as offer'd, The Commissary as he was oblig'd by Law, and Justice, reversed the Rector's interlocutory decree; and by a definitive sentence restored Mr. Colmer.

It is evident now that the Rector had all advantages allow'd him of justifying, or of corroborating his sentence; That more than usual time was granted to him for the obtaining fresh proofs; and an Extraordinary liberty was afforded him of producing them; and that, in short, if Mr. Colmer be guilty, he owes his *impunity* not to the *Favour* of the Bishop; but to the *obstinacy* of the Rector.

3. *Concerning the Offences of the Rector and Others,  
which oblig'd the Visitor to make his solemn and  
General Visitation.*

Nothing but the concurrence of so many exorbitant crimes, as at this time appear'd in the College, could

have perswaded the Bishop to Visit the College in person; and to wave those just excuses, which his business and indisposition of body now afforded him; It will be necessary therefore, before we enter upon the Visitation itself, to give a previous account of those offences, which occasion'd it; and to begin with that, which we cannot name the first, nor the greatest; but which hath nearest relation to the former discourse; and may therefore not improperly be plac'd next to it.

As soon as Mr. *Colmer* was reinstated by the Commissary; he was immediately after his departure again *Expell'd* or rather *disown'd* by the Rector. The pretences and colours upon which he now proceeded, and the management of this process were more surprizing, even than his former conduct in this affair. He cited Mr. *Colmer* to answer to a new Charge; and at the meeting desir'd a Publick *Notary* to attest; That he did not own him to be a *rightful Fellow of the said College*, but a *pretended Fellow*; and *as such*, he would proceed against him, upon farther evidence of incontinency. Now it is not easy for a less subtle man, than the Rector to imagine, why he should deny him to be Fellow; and yet proceed against him. If he was Fellow, why disavow'd? and if not, how could he fall under his jurisdiction? The Rector's authority over him was founded on Mr. *Colmer's* relation to the College; and why should the one remain, if the other was determin'd? If Dr. *Masters* proceedings were valid, why is Mr. *Colmer's* right disputed; and if there was a nullity in them; why is his present right implied, and confess'd by a subsequent



quent Expulsion? Mr. *Colmer* therefore told the Rector, that if he would not own the Sentence pass'd by the Bishop's Commissary he thought he had no jurisdiction over him; There being no Statute provided for the Expulsion of Intruders, and pretended Fellows. But if the Rector would own that Sentence, he was ready to answer to any new Charge, from which that Sentence did not clear him. The Rector persisted to deny the Commissary's authority: and upon that account only Mr. *Colmer* thought it not advisable for him, nor a duty incumbent upon him to submit to the Rector: who upon his own Principles had no jurisdiction: and from whom there could be no expectation of *justice* by what he had now said, and heretofore done. He left the Room therefore: and in his absence, part of a Paper which the Rector had formerly Printed, concerning Mr. *Colmer's* Case: was read before the Seniors: and, upon this evidence, without any witnesses call'd, or proof given, Mr. *Colmer's* name was struck out of the book: and somewhat was declar'd: either that he *now was not*, or that hereafter he *should not be* Fellow. And now, since we have had occasion to mention that Paper, we should not let it go without some particular remark: and its due Character: It is design'd for the summ total of all the Rector's evidence, and the defence of Mr. *Colmer's* Expulsion: and is wrote, with as much prudence as the affair it-self, of which it treats, was manag'd: with as much decency, as Mr. *Colmer* would wish to his adversary: and with as much truth, as we might justly expect from a man of the Rector's principles.

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These unjustifiable proceedings carried on so rudely, at this time, in such a manner, must be intended and taken as direct affronts to the Visitor, and his authority. However his Lordship's resentments were not so heightened by these injuries done to himself: as by the other scandalous offences of the Rector; which were levell'd against his *Savior*. For not long before this time, an Heretical book, entitled the *Naked Gospel*, was publish'd by Dr. *Bury*; in which with some weak arguments, and disagreeable mirth, The Author endeavors to confute the divinity of *Christ*; and to expose it.

The *Godhead* of our *Savior* (who in some places is nam'd a *Crucified Vagabond*) is declar'd to be a dangerous and impertinent Speculation, and (to speak in this Author's *Idiom*) a *silly Question*, and a *Push-pin point*. The Fundamental Articles of our Faith are there stil'd *Gross impositions*; and matters of no *certainty*, nor perhaps of *credibility*. The Council of *Nice* is by him represented as an *ignorant*, and *Partial Synod*; and the Decrees of it such, as were made according to the interest of Parties, not the merits of the Cause. His way of reasoning is much like that, when heretofore he pretended to sole, unqualified, and incommunicable power from the words in the College Statutes: *sit unus Rector*; tho' in other places the officers and seniors have a joynt authority; and are Commissioners with him. In short, all the absurd and desperate opinions of the *Anti-Trinitarians* abroad are here repeated, and avow'd: all the old misapply'd citations, of which the more learned

*Arians*

*Arians* are now asham'd, are here reviv'd and enforc'd; and indeed the whole *System* of the *Socinian* doctrine is by this *Plagiary* transcrib'd, and made his own with the new additions only of worse language, and less decency. This book the *Rector*, being then *Pro-Vice-Chancellor* of *Oxford*, carried to the Press; and, by the authority of his Character prevail'd with the Printer to Print it without any other licence. As soon as it was finish'd; he dispers'd it to some Friends; and intended, as he himself since professes, to have *presented it to Convocation*. But when his Friends had dissuaded him from so dangerous an attempt; He resolv'd in a second Edition to mollify some harsh expressions, to carry on the *same* design with *more* cunning; and to give as great a stroke to the Divinity of *Christ*, with more security to himself. Thus this *Blasphemous Treatise*, with some few variations, sometimes alter'd for the better, more often for the worse, was publish'd by him, and his confident *Sir Kingston*, with more openness, and assurance than the former.

It was time now for the Bishop to be mindful of those earnest entreaties and prayers, by which the Founders of that College have adjur'd him to preserve the *Christian Faith* in it. He foresaw the sad consequences, which must necessarily ensue if *Dr. Bury*, were permitted, in such a Station, by the power of his *irresistible authority*, to publish such doctrines; and to enforce them. This book of the Rector's was not more

complain'd of to the Visitor, than his *life*; and his *Morals* discredited the College as much as his *Speculations*. He openly sold the offices and places of the College; and consequently the Collegiates were expos'd to the impositions of those, who had purchas'd a right of defrauding them. His Chastity was said to be so notorious; that he seem'd to have other designs in Expelling Mr. Colmer, than the punishment of Vice; and to have acted more like a *Rival*, than a *Judge*. His indifference to order in the Chappel; His neglect of discipline in the House; His not maintaining of Lectures, &c. made the whole College, as far as in him lay, one continued disorder. So that the Dissentions of the Fellows upon these arbitrary proceedings grew high; and, without the interposing care of the Visitor, there was no prospect of quiet, and agreement. It was easy now to foresee, that nothing could put a stop to the approaching ruine of the College, but a *Visitation*: no other way was left of reforming these *Enormities*; or of composing these *Divisions*; no other method could prevent the change of this *Nursery of Religion*, into a *Seminary of Socinianism*; and therefore his Lordship was resolv'd to discharge the great trust, which was happily repos'd in him: and so far to imitate his Noble Predecessor, who had at great expences founded that College, as to exempt him-self from no trouble, or charge, in *reforming*, and *preserving* it.

4. *Concerning the Visitation it self, the Evidence there given, and the Sentence there pronounc'd.*

**H**itherto, in all the former proceedings, no other power was allow'd to his Lordship by the Rector, but a *General Visitation*: The Universal authority, which the Statutes repose in him, was according to his interpretation, wholly resolv'd into a *Quinquennial Enquiry*: and all the General words, which give Latitude, and full Extent to his power, were pretended to have reference to no other, than *this Jurisdiction*. His Lordship therefore being willing to reform the College not only by *Legal*, but *Unexceptionable* methods, appointed the 16 of *June* 1690. for the day of his *Solemn and General Visitation* to be held in the Chappel, and serv'd the College with a previous Citation in order to it. Now was it hardly to be expected, that the exercise of this unquestionable power, which had always been own'd and confess'd, could afford any colour of dispute, even to those, who always thought it more wisdom to put off their own *Trial*, than to make their *Defence*. And yet, when the Bishop went in Person to the Chappel; where the *Rector*, and *Fellows* had been cited to appear, he found the doors designedly shut against him. *Nine* of the *Fellows*, indeed who were sensible of the *Rector's* Arbitrary proceedings, and of the *Bishop's* undoubted

Authority, attended his Lordship, and own'd his Visitatorial power. But the Rector and some Fellows with him appear'd; and in a very tumultuous manner in the open Quadrangle offer'd a Protestation against his Authority; and would not permit him to have any entrance into the Chappel; which was the proper place for them to tender the Protestation, and for him to receive it. Other indignities and disrespectts were then offer'd to his Lordship, which, by his order, I forbear to report; even the indecent behaviour of *Sir Kingston*, which deserves a particular mention, but that it would force such reflections, as I make it my business to avoyd.

The substance of their Protestation was this, that the *Bishop's* power of *Visitation* is not general, but limited and restrain'd to once in 5 Years, that Dr. *Masters* by a commission from the Bishop lately exercis'd acts of Jurisdiction, and Visitation in the College, in restoring an expelled Fellow; and that therefore within the term of 5 Years, which was not yet expir'd, his *Lordship* was barr'd from any other *Visitation*.

This Argument or rather Cavil is so very weak in it self; and supported by so little colour of reason, that it is necessary to beg the Reader's pardon for troubling him with a solid confutation of it: For it is evident, beyond dispute, That

1. The Nature and being of a *Court* can be no other, than what is granted in the *Commission*, on which it depends: and therefore since the *Commission*, which



is here annex'd, is restrain'd to the *Cause* of *Appeal* only, the acts of the *Commissary* were, and must be agreeable to it, and are null in themselves, if they exceed those restrictions.

2 The nature of a *Visitation* is a voluntary enquiry into matters criminal, and correction therupon; But the Matter transacted by Dr. *Masters* was a *nude Cognition* of *aggravance* done to a certain Person, at his *instance*, and ended in *Restitution* only.

3 The nature of a *Visitation* of a *College* requires it to be general, both as to *Crimes*, and *Persons*; But to this Court were call'd those *Persons* alone, who had been partakers in the *personal wrong*.

4 The Commissioner openly declar'd; that he did not then come upon a *Visitation*; and therefore refused the *Sportulage*, in that Case appointed by the Founder.

5. The Rector, who gives a new authority to the Commissary, *when gone*, Protested against him, *when present*; The Judicial Acts, that he did, were neither own'd nor observ'd; and the *Process* upon the *Appeal*, which is now say'd to be a *Visitation*, was then pretended by the same Man to have been *invalid*, and *null*.

The Visitor therefore esteeming the injury, and violences offer'd to him, as an invasion of the Prerogative (the Visitatorial power being first deriv'd from, and confirm'd by the Crown) apply'd himself by Petition to their Majesties in Council.

The application to the *Privy Council* in things of this Nature hath allways been warranted by Custom; the

Precedents of their *final decision*, or *arbitration* are not few, and their orders have usually by *mutual consent* of both Parties been obey'd. But now the *Rector* openly declar'd that he would not acquiesce in their determination of the affair, nor be concluded by it : whether upon notice of this, or whether their *Lordships* did not take *this Cause* to fall under their *Cognizance*, or upon any other motives (which being things *secret* and *uncertain* it is not proper to enquire into) Their Lordships thought fit *wholly* to dismiss this Cause from *that Board*; and to refer the Visitor to the *usual course of Law*.

The *Bishop* finding himself left to the methods of *Law*, again took the advice of the most learned Council in the *Laws, both Common, and Civil*, and was by them satisfy'd in these three points; which in the precedent discourse have been stated, and settled,

1. That he, *as Ordinary*, had power of receiving, and determining Appeals.
2. That the Commission made to his Commissary was only a *Commission of Appeal* restrain'd to the hearing and determining of the cause of that appellant only.
3. That being constituted by the Statutes *Visitor* and empowr'd *without requisition* to visit once in five Years; and the execution of that *Commission* not being a *Visitation*, the *Bishop* might *Visit*, as soon as he thought fit.

His Lordship being thus confirm'd in his opinion, went

went down to *Oxford* in his way to his *Diocefs*, with a resolution to Visit; but to deferr his Visitation, till the meeting of the *Parliament* should oblige him to return to *London*. During his stay the *Rector* convening all the *Fellows* in an insulting manner told them, that he had defeated the Bishop's design of Visitation; and *bad thrown him flat on his back*; farther adding to that part of them who had submitted to the Visitor, that tho' he had power to expell them, yet now he would only *Register* them: But they were not to look on this as a *Pardon*, but as a *Reprieve*; For that they should continue at his *Mercy*, and removable at his *Will*.

Whereupon, Complaint of these *Arbitrary* proceedings being made to his Lordship, then at *Christ-Church*; He being sensible, that inevitable ruin to the College must follow, if some speedy stop was not put to the Rector's *Exorbitant* designs, resolv'd immediately to proceed to a Visitation, and serv'd a *Citation* on the Rector, and Fellows (being then in Town) to appear after some few days in the College *Hall*.

At the day appointed, two hours earlier, than usual, the Rector order'd the College prayers to be said, and after the end of them, instead of opening the gates, as he ought, he order'd them to be more firmly barr'd, and secur'd; resolving, as he had before kept the Bishop out of the *Chappel*, now to double his *rudeness*, and shut him out of the *College*. The Bishop knowing his temper, and apprehending such usage from him, resolv'd (as he had been before by his Council advis'd) to have kept the  
Visitation

Vifitation as near the College as conveniently he could; but hearing afterwards that the Doors of the College were open'd; and that a great uproar was occasion'd thereby; he went with all convenient fpeed to put an end to the confufion; and to proceed, as quietly as might be in the Vifitation.

How the Gates were open'd, or by whom, the Bifhop knows not; and lefs can he underftand, by what colour of *Law*, at that time, they were fhut up. But probable it is, fince the Gates were open'd from the *College fide*, that fome of the Fellows finding themfelves unftatutably confin'd by the Rector, and having no profpect of liberty within the three days appointed for the Vifitation, thought fit to free themfelves from an illegal and arbitrary *Imprifonment*. And if any tumult happen'd on that account, the guilt of it muft certainly lye on thofe, who by their unjuftifiable act firft occasion'd it; and afterwards, by their rude, and violent *interpoftion*, promoted it.

As foon as the Bifhop came into the *Hall*, the Rector with like *rudeneff*, as formerly, threw in the former *Proteftation* againft the Bifhop's *Jurifdiction*. The Bifhop however permitted that the *Proteftation* fhould be read, (as far as the *Fellow*, that accompany'd the Rector, could read it,) and upon the Rector's defire, promifed that it fhould be entred in the *Register*. His Lordfhip farther defired the Rector to fit down, who return'd this answer only to the Civility: *No I will ftand by what I doe*. After this indecent language, in a Contemp-  
tuous manner, He went out of the *Hall*; and refus'd

to

to attend the Visitation; or indeed, the *Issue* of his own *Plea*. Now however a *Plea* to a *Jurisdiction* may exalt a man against him who hath no *Jurisdiction* at all; yet against a *known Ordinary Judge*, in case he should seem to intermeddle beyond his *Jurisdiction*, great *Temper*, and *Reverence* is to be us'd; the matter is to be debated *before him*; and his judgment is to govern the question *till farther Appeal*. With all which the shutting up the *Chappel Doore* at one time, and the *College-Gates* at another, the flinging in a *Protestation*, and rudely receding without expecting the Success of it, are very inconsistent: a defence, cloath'd with *these* circumstances, is so far from tempering the *Contempt*, that it adds thereto enmity to the *Judge*, and despiight to the *Law*; than which there can be no greater aggravations.

However his Lordship without taking notice, or advantage of these *indecencies*, order'd the *Protestation* to be read throughout; and *Proclamation* to be thrice made for the *Rector* and *protesting Fellows* to appear; and to justify their *protestation*; and to hear his Lordship's Judgment therein: but when none would answer, tho' divers of the *protesting Fellows* were present; he observ'd the usual forms of process; and proceeded on regularly in the business of his Visitation. The *Articles of Enquiry* were read; and the Bishop, as by Statute directed, gave an *Oath* to such of the *Fellows*, as own'd his Lordship's Authority; and oblig'd them to discover to him such *Enormities* in the College, as by publick fame, or otherwise should come to their knowledg. It is not

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thought



thought convenient, nor is it consistent with Statute, to discover the names of those that detected each *crime*; But in General the returns upon Oath to the *Interrogatories* were these;

1. That the *Rector* was the reputed *Author* of a Book, call'd *the Naked Gospel*; that he sat at *S. Athanasius's Creed* in the Chappel; that he was generally suspected of *Herefy*; and did not read *Prayers* in the Chappel as often, as by Statute he was oblig'd.

2. That he pretended to an *Arbitrary* power over the Fellows; and had put some of them out of *Commons* for obeying the *Inhibition* of the *Visitor* in Mr. Colmer's Case.

3. That he had sold *Places* and *Offices* in the College, particularly those of the *Cook*, and *Butler*; and propos'd the Illegal Exaction of *Bonds* from the *Fellows*, who should thereafter be elected, whereby they should engage to seek no reparation if he expell'd 'em.

4. That he was by publick *Fame*, upon probable grounds suspected of *Incontinence*.

5. That Dr. *Hern*, having a *Parsonage*, above the value limited in the Statute; kept his place, contrary to the intent of the *Founder*.

6. That Mr. *Vivian* was Elected into Mr. Colmer's place being then full.

7. And lastly; That *Divinity Disputations* were seldom held: the *Philosophical Lectures* perform'd by *Deputies*; the *Catechist's* Duty not observ'd; and in short, the whole *Discipline* of the College neglected.

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The *Visitor* seeing the *Rector* and others charg'd with some of these Crimes upon Oath, and suspected of others, called them again in Court to answer to these Accusations: and when they could not be brought to appear, his *Lordship* thought fit, not to punish the contempt of the *Rector* till he had taken all farther just, and legal methods of detecting the Crime, and expected his submission and innocence to the last day. In the mean time when his *Lordship* found, that some of the *Fellows*, who factiously abetted Dr. *Bury* in these his arbitrary proceedings could not be brought to appear before him, and to own his power: This great, and repeated contempt met with no other punishment than a suspension *ab Officio & Beneficio*, for three Months, and farther, till they should be brought to own his *Authority*. And since Sir *Kingston*, the Person who had before rudely affronted the *Bishop*, immediately upon his Suspension, the same day, exercised his *Office* in the Chappel, upon the doors whereof the Sentence had been affix'd; the *Bishop* according to the direction of the Statutes, upon so great a contempt, heightened with so many aggravations, thought fit, to *excommunicate* him.

The substance of the Evidence, which was taken before his *Lordship*, and upon which his Sentences were grounded, was in short this which followeth.

As to Dr. *Hern*, it appear'd by the Register of the Lord Bishop of *London*; That he was Admitted and Collated to the Parish of St. *Ann*s 1 *Apr.* 1686. and upon

comparing of the *Statute* of the *College*, with the *Act* of *Parliament* relating to the *Rector* of that *Parish*; it appear'd, that such maintenance was, by the *Act* settled, and such residence enjoyn'd, as is wholly incompatible with his Fellowship. The Condition of his *Parsonage* is, that he shall reside upon it four parts of five in the Year; and the Condition of his *Fellowship* is, that he shall not be absent from the *College* above fifty days. All livings rated above 8 *l. per. Annum* in any publick Records are inconsistent with a Fellowship; and upon this, 100*l.* are settled by *Act* of *Parliament*: besides several *rents*, and other *perquisites*.

*Dr. Hern*, by this direct clear, and *authentick* Evidence, had no right to his Fellowship; and by his former acts in matters of the like nature, had no *Plea* for favour: He having been instituted at one time, to *Blandford*, and at another time to the *Rectory* of *Hayman* in *Dorset-shire*, took occasion to keep himself free from the danger of the *Statute*; by a resignation at eleven month's end; and thus, by observing the letter of the *Law*, eluded the design of the *Legislator*. The *Rector* had often openly threatned him with *Expulsion* on these accounts; but he knew the methods, that would pacify *this Governour*, and was careful to prevent, at least to appease his *Indignation*. The *Visitor* saw therefore that it was a *Crime* of the *Rector* and the *College*, not to have declar'd his place void long since; and therefore, now at last took away that *Scandal* from the *College* by removing him.

Concerning *Mr. Vivian*, it appear'd that he had been elected

elect'd into Mr. *Colmer's* place ; which was never void : since Mr. *Colmer* was not then Statutably expell'd ; and the business of his Appeal was at the time of the election depending before the *Visitor*. And since Mr. *Colmer*, now appear'd, and was ready to answer to what ever could be alleged against him, and neither in the detections of the *Fellows*, nor otherwise was charg'd with suspicion of *Incontinence* ; and by the Oath of two Persons, that appear'd in Court, was acquitted from the former Accusations, The *Visitor* could find no cause to displace or expell him.

And lastly as to the *Rector, Litchfield* the Printer of the *Naked Gospel*, came into Court, & attested upon Oath, that he receiv'd that *Heretical* Book from *his* hands ; and was Authoriz'd by him, being then *Pro Vice-Chancellour*, to print it. It was sworn that the former *Cook*, and present *Butler* gave him, one 150*l.* the other 170*l.* for their Places ; and the *Bond* it-self for the Payment of the Mony with the *Rector's Receipt* in his own hand on the back of it was brought into Court.

Concerning the 4<sup>th</sup>. *Article*, three *Affidavits* were taken, which out of respect to the *Rector's Character*, it is thought fit at present to conceal.

His Lordship was now fully satisfi'd, that it was not consistent with the *intetest* of the College, the *reputation* of the *University*, or the *pious* design of the *Founder* ; to permit the *Rector*, any longer to maintain such a *Station*, as he now had in the College, and *University*. His Lordship therefore found himself oblig'd to de-

prive him, which he resolv'd to doe confining himself strictly to those methods, which the Statutes direct in the deprivation of a *Rector*. And therefore, since there are some words in the Statute that seem to desire, and recommend to the Visitor a concurrent *Vote* of the Majority of the Seven *Senior* Fellows there present, to strengthen, and confirm his Act of *Deprivation*, the Visitor took the consent of Four of them accordingly; whose names are subscrib'd to the *Instrument* hereafter annexed. If exception be taken by any, to the Persons concurring, as being not really the Seven *Seniours* of the College; they may know that the Bishop was satisfi'd, that the Statute was sufficiently observ'd in the concurrence of those that subscrib'd to the *Deprivation*. For

1. The Statute by *maxime Seniores* rather *directs* than commands the Concurrence of the *Seniors*. The *Founder* requires indeed the consent of *Four* Fellows; but he wishes only, that if it be possible, those Fellows, that consent may be the *Seniors*. Neither were those the very *Seniors* that Expell'd Mr. Colmer, but only the *Seniors* present.

2 The constant usage in this and all Colleges interprets those words of the Statute. The concurrence of *Seniors* to all publick Acts, is always understood to mean the consent of those that are (not absolutely and truly the *Seniors* of the College, but) the most *Senior* of those that are present; and he, that by his own crime, *incapacitates* himself from performing any Acts of his place, is by the rules of *Law*, and *Reason*, reputed as *absent*.

3. It would be absurd in expelling a *Rector* to require the

the Consent of those Fellows who are *participes criminis*; and are by the Visitor him-self, upon that contempt, already *suspended ab Officio*, as well as, *a beneficio*; and so made incapable of giving any legal concurrence.

His *Lordship* having thus according to *Law* depriv'd the *Reſtor*, knew how little submission was to be expected from him; and therefore thought it necessary to enforce his *Sentence*. The only Method of doing it was such, as the Statute directed; and since in Cases of Obstinacy, *Censures* are there expreſſy preſcrib'd, by which must be meant *Ecclesiastical Censures* (this, as all other Colleges in *Oxford* being exempted from *Episcopal* and *Metropolitan* Jurisdiction; and immediately subject to the *Ecclesiastical* Jurisdiction of the Visitor thereof, if he be a Person *Competent* and *fit* to Exercise such Authority) the Bishop as Ordinary, thought convenient to give the *Reſtor* Seven days after *monition* for his removal; and in Case of farther *Contumacy*, pronounced him *Excommunicate*.

The account of the Visitation being thus given it may not be immaterial to add; that upon his Deprivation, such of the Fellows of *Exeter* College, as were capable, according to the order appointed in the Statutes, proceeded to the Election of a *New* *Reſtor*; and Unanimously chose Mr. *Painter*, a person of unexceptionable worth and integrity.

And lastly, for the Honour of the *University* of *Oxford*, it must not be omitted, that immediately after this discovery of the Author of the *Naked Gossell*, which was made by his *Lordship*; The *University*, being now sensible



fible of the place, where the book was Printed, and of the Author himself, who had perfidiously us'd the colour of their authority in publication of it, by a solemn Decree condemn'd that *Heretical book*, and particularly several propositions therein contain'd; and order'd it to be publickly burnt in the *Schools*.

Thus have we now given a full account of an *intricate Cause*; *intricate* only, as designedly perplex'd by those, who, being afraid of the *Sentence* have disputed every step of the *process*. And indeed, if we look back, and take a review of the whole Cause, it will be easy to observe, That, the strength of the Adversaries consists more in the *number* of their *Cavils*, than in the *force* of them. For first is it not evident, that by Law, and the Statutes of the College, no man ought to be devested of his *Freehold* without *legal conviction*? Was there any *concludent circumstance*, in Mr. Colmer's Case alleg'd, upon which he could be legally convicted? at least was there any proof of such *allegation*? If we let in the supplemental evidence, which was taken after the *Sentence*, and therefore cannot in *equity*, *justify*, or *support* it; *even in that*, there is hardly ground for *jealousy*, much less for *certainty*. Where the same man is *Accuser*, *sole Witneß*, and *Judge*, are not the proceedings, if not *null*, yet at least, justly *suspected*? And, where there is ground of suspicion ought not the *Ordinary* to admit an *appeal*, and to allow a rehearing? If there was not therefore such proof, nor such legal process against Mr. Colmer, as the Statute requir'd; it is evident, from the Statute it-self, that he is not barr'd



barr'd from *appeal*. 'Tis apparent it was not the design of the *Founder* to make the Rector *absolute*, and *uncontrollable*; and to set up a Court in *his breast*, from which *no writ of Error*, or *appeal* should ly. At least, it is not easy to imagine why Mr. *Colmer* should be more forsworn for appealing, than the *late Rector* now is: Both were expell'd by *competent Judges*; both are *equally* barr'd from *appeal*; and the only difference between them is, that there are legal proofs against the latter, but not against the former. If therefore an *appeal* is to be admitted, who but the *Ordinary* is the Proper judge of it? and what application upon such grievances hath ever been made to any other, than the Visitor? In all other Colleges, where the Visitors are restrain'd from the frequency of *solemn*, and *chargeable* Visitations; the power of receiving *appeals* oftner, has either not been disputed, or upon dispute, adjudg'd to them, and admitted. Extraordinary emergencies have always been allow'd to have speedy remedies; nor is it reasonable, that no redress should be obtain'd, till either the grievance be of *five years standing*, or till the *parties obnoxious* desire a Visitation. If the Rector, and the majority of the seven *Seniors*, spend the revenues of the College, and commit *dilapidations*; can there no stop be put to the exorbitance till the *Quinquennial* term is expir'd? And is not the College to be *visited*, till it shall be wholly ruin'd? The Bishop *then* had power of receiving *appeals*; and as there never was a greater necessity for the exercise of that power than in this instance, so was there never more mo-

deration us'd in the *acts* of it. What interest could the Bishop of *Exeter* have in this Cause, but the performance of *Justice*? and what design could the Rector have in not producing his former proofs, but the establishment of an arbitrary and uncontrollable jurisdiction in *himself*? It is plain then, that the Commission of *appeal* was upon *just motives legally* granted; and is no less evident, that it was wholly restrain'd to the *matter* of the *Appeal*. What right had Dr. *Masters* to Visit *Exeter-College*, but by a Deputation from the Bishop? And how can the Deputation appear, but by the Commission? If there be no Commission then that enables him to *Visit*; if the *powers* given in the Commission of *Appeal* are not *General*, but subject to restrictions, and *determin'd*: it shall be allow'd that the Commissary *did* make a Visitation, if it can be prov'd, that he *could* make any. The Commissary, acting by a limited Commission, confin'd him-self strictly to the bounds of it; but if he did not; his acts, as supported by no authority, were *null* and *invalid*; and as they could not affect the College, so neither could they prejudice the Bishop's right to a future Visitation. If the Restitution of Mr. *Colmer* was such a judicial Act, as a Visitor only can exercise; and if Dr. *Masters* had power of Visitation; why was it protested against as a *null* and *in-  
authoritative act*? and why was it never admitted to be of any force by the *Rector*, till it was pleaded, as a barr to the Jurisdiction of the *Visitor*? Since therefore Dr. *Masters* did not *Visit*, the *Bishop* was not now restrain'd from his right of Visitation; and if he had right of being  
Judge,

*Judge*, there is none, even of the *Rector's Friends*, that can dispute the equity of the *Sentence*. *Bribery*, *Herefy*, and *Incontinence*, clearly made out, and prov'd, are certainly sufficient to make a Governor of a College, unworthy of that Station. And now if the *Sentence* of Deprivation was rightly inflicted; it was necessary, that all legal Methods should be us'd, which could enforce that *Sentence*. And since the Founder had directed the *Visitor*, who was always to be a Bishop, to the use of Ecclesiastical Censures; Excommunication was the last and only remedy, whereby the *late Rector* could be oblig'd to Submission.

It is clear then, that as his Lordship's *designs* were *honourable* and *just*; so his *Methods* of pursuing them have been *Statutable* and *legal*; and that the justice of his *Sentence* doth not more plainly appear than the legality of his *Process*. It is clear at last, That *the late Rector's* arguments in *Law*, are as bad, as those which he uses in *Divinity*; and that his *Plea* is no more true, than his *Gospel*.

*The Copies of the Authentick Papers & Instruments referr'd to in the Preceding Account.*

1. *A Copy of the Statute of Exeter College; upon which Mr. Colmer was expell'd by the Rector.*

Cum inter Homines nihil sit magis decorum, quam morum honestas, nihilque hominem à bellua magis discernat, quam probitas vitæ, modesta cum aliis conversatio, ac in injuriis, si quæ inferantur, patientia. Nos igitur hæc expetentes statuimus, ac in visceribus Jesu Christi obsecramus Rectorem, Scholares, & electos omnes præsentes, & futuros, uti in omnibus & super omnia *unitatem*, & *mutuam inter se charitatem*, *dilectionem*, *pacem*, & *concordiam* semper habeant, & observent, & pro eis semper fovendis, & alendis pro viribus enitentur. Quod si quis Scholarium, vel electorum, adulterii, incontinentiæ, hæresis pertinacis, homicidii voluntarii, perjurii manifesti, crebræ ebrietatis, alteriusve publicæ turpitudinis, coram Rectore, subrectore, *Decano*, & quinque aliis Scholaribus maxime Senioribus, vel majore parte eorundem, cum dicti Rectoris assensu, *legitime convictus fuerit*, ipsum perpetuo exclusum, & privatum ipso facto à dicto Collegio, nulla alia monitione præmissa, virtute præsentis statuti decernimus.

- 2 A Copy of the Commission granted to Dr. Masters; limited only to the Cause of Mr. Colmer's Appeal.

**J**ONATHAN *Providentia Divina* EXON *Episcopus, Collegii Exon in Academia Oxon Patronus & Visitator, Dilecto nobis in Christo Edvardo Masters, Legum Doctori Vicario nostro in spiritualibus generali & Commissario nostro legitime constituto Salutem, Gratiam & Benedictionem: Cum ex Parte Jacobi Colmer Collegii Exon prædicti Artium Magistri nobis monstratum extitit, Quod licet inter Cætera in Statutis Collegii Exon prædicti specialiter Statutum, ordinatum, & provisum est in Rubrica de causis propter quas Scholares Privari debeant in hac quæ sequitur verborum forma, aut Consimili in effectum viz. Quod si quis Scholarium vel Electorum, Adulterii, Incontinentiæ, Hæresis Pertinacis, Homicidii voluntarii, Perjurii manifesti, Crebræ ebrietatis, alteriusve Publicæ turpitudinis, Coram Rectore, Subrectore, Decano & quinque aliis Scholaribus maxime Senioribus vel maiore parte eorundem cum dicti Rectoris Consensu legitime Convictus fuerit: ipsum Perpetuo exclusum, & Privatum ipso facto à dicto Collegio, nulla alia Monitione præmissa, virtute Præsentis Statuti decernimus &c. Nihilominus Arthurus Bury Sacræ Theologiæ Professor & Collegii Exon supradicti Rector, Georgius Verman Sacræ Theologiæ Baccalaureus Subrector, Ezra Cleveland Artium Magister Decanus, Thomas Lethbridge Sacræ Theologiæ Baccalaureus, Richardus Hutchins Sacræ Theologiæ Baccalaureus, Benjaminus Archer Sacræ*

F 3

*Theologiæ*

*Theologiæ Baccalaureus, Samuel Adams Artium Magister, Philippus Thorne Artium Magister quinque Socii maxime seniores in dicto Collegio, aut eorum saltem Pars major in omnibus minus justè, nulliter & inique (eorum Reverentia semper salva) Procedentes objecto ei incontinentiæ Reatu cum quadam Anna Ancilla, nuper Puerpera, nullis autem editis, de super Probationibus saltem legitimis aut de jure sufficientibus, de facto quantum in illis fuit, cum de Jure non potuerint, præfatum Jacobum Colmer, nullatenus legitime Convictum, à dicto Collegio Excluserint & amoverint: Cumque dictus Jacobus Colmer Sentiens se ex Præmissis, Nullitatibus & Iniquitatibus & Injustitiis enormiter lædi & gravari ab eisdem & eorum quolibet & omnibus exinde sequentibus ad nos Exonien. Episcopum prædictum & Collegii Exoniensis memorati visitatorem legitimum rite & legitime appellaverit, deque nullitate & iniquitate Præmissorum omnium & singulorum æque Principaliter dixit querelatus & conquestus est ac deinde nobis supplicari fecit quatenus nos opportunum Remedium super his sibi providere dignaremur, nos igitur hujusmodi supplicationibus favorabiliter inclinati ac Justitiæ Complementum æque in Præmissis fieri & ministrari volentes, Tibi de cujus sana doctrina conscientiæ puritate & in rebus gerendis dexteritate plurimum in hac parte Confidimus, Ad Cognoscendum & discutiendum hujusmodi causam Appellationis & querelæ Nullitatis & Iniquitatis prædictam, totumque negotium principale cum suis incidentibus emergentibus dependentibus annexis & connexis quibuscunque? Et ad audiendum hinc inde proposita & proponenda & ad probationes admit-*  
tendum



tendum & recipiendum juxta formam statutorum dicti Collegii & juris in ea parte exigentiam, eandemque causam plenarie & finaliter determinandum, sententiandum & finiendum & generaliter omnia & singula alia faciendum, exercendum & expediendum, quæ in Præmissis aut circa ea necessaria fuerint, seu quomodolibet opportuna, (*vocatis primitus coram vobis præfato Jacobo Colmer, nec non præfatis Arthuro Bury, Georgio Verman, Ezra Cleveland, Thoma Lethbridge, Richardo Hutchins, Benjamino Archer, Samuele Adams, & Philippo Thorne, ac Cæteris de Jure in hac parte vocandis*) vices nostras Committimus ac plenam in Domino (*Tenore præsentium*) Concedimus potestatem, cum cujuslibet legitimæ coercionis potestate. Assumpto tibi Thoma Tyllot Registrario nostro, Notario Publico, eoque absente vel Impedito alio quocunque Notario Publico partibus prædictis indifferente. In cujus Rei Testimonium Sigillum nostrum Episcopale Præsentibus apponi fecimus Dat. Vicesimo primo die mensis Februarii Anno Domini (*Stylo Angliæ*) Millesimo Sexcentesimo octogesimo nono: nostræque Consecrationis Anno quinto & Translationis Primo.

J. Exon.

- 3 *The Affidavits of the two Persons present at the Labour of Ann Aris, who was deliver'd of a Bastard Child; and, at her Labour, acquitted Mr. Colmer from being Father of it July 25. 1690.*

**W**Hich day appear'd personally *Mary Herne*, Wife of *William Herne* of the Parish of *St. Michael* in the City of *Oxford* Labourer, and declared that she was present at the Labour of *Ann Aris*, who was delivered of a Bastard Child, and she did then declare upon her salvation, that no body had to Doe with her, but *Ferdinando Smith*, and that he was the Father of the Child, which she so declar'd upon the Midwives three times pressing her to speak the Truth, and not to wrong any Gentleman, there being then present *Marian Holton* the Wife of *James Holton* of the same Parish.

Eodem die jurat cor.  
Domino Episc.

*Mary Herne.*

*Eodem die.*

**W**Hich day appeared Personally *Marian Holton* Wife of *James Holton* of the Parish of *St. Michael* aforesaid Labourer, and declared that she was present at the Labour of *Ann Aris* who was delivered of a Bastard Child, and she being then twice pressed by the Midwife, to declare who was the Father of the said Bastard Child, declared that *Ferdinando Smith* the Elder was the Father

Father of the said Child, and that no body else had to doe with her, there being then present *Mary Herne* afore-said.

Eodem die jurat cor.  
Domino Episcopo.

*Marian Holton*

The like Affidavits of the Midwife, who deliver'd *Ann Aris*; and of Mrs. *Banister* who was present at the Labour, were taken before Sr. *William Walker* 14. Jan. 1690.

4 *The Certificate and Deposition of Alderman Fifield concerning the Examination of Ann Sparrow taken before him Oct. 29. 89.*

**T**Hese are to Certifie whom it may concern, that *Ann Sparrow* having been deliver'd of a Bastard Child, I being a Justice of Peace was desir'd to Examine the said *Ann Sparrow* upon her Oath, which I did do accordingly upon the 21 day of this present *October* 1689. the said *Ann Sparrow* did then declare upon the Oath that she took, that Mr. *James Colmer* of *Exeter* Colledge was not the Father of the said Bastard Child, and did also then upon her Oath declare that the said Mr. *Colmer* never had to do with her, and that his name was put into her Mouth by one Goodwife *Roberts*, witness my hand

Octo. 29. 89.

*Tho. Fifield.*

G

*Vicesimo*

*Vicesimo quinto die Martii Anno Dom. 1690.*

**M**emorandum, This day *Tho. Fifeild* Alderman of the City of *Oxford*, and one of their Majesties Justices of the Peace of that City, made Oath before the Right Worshipful Dr. *Edward Masters* Dr. of Laws, and Commissary to the Right Reverend Father in God *Jonathan* by Divine permission Lord Bishop of *Exon*, Patron and Visitor, Ordinary of the College of *Exon* in the University of *Oxon*, That the Certificate hereunto annexed is all of this Deponent's own hand Writing, and that the contents thereof were and are true, and were so had and done as is there set down and Expressed.

Jurat Coram me  
Ed. Master Commiss.  
Act. in præsentia mea  
Jo. Greeneway Not.  
Pub. & Reg. assumpt.

*Tho. Fifeild.*

5 *A Copy of the Statute of Exeter College concerning the Visitation of that College.*

**A**DEO pronum & ad malum proclive est humanum genus, & uti quotidie videmus, varietas temporum optima quæque aufert & mutat, ut non sit in nostra potestate eas condere Leges, & Statuta quæ non violet aliquando astutus & versipellis, aut male interpretando, aut aliquid fraudis ingerendo, aut excogitando modum, quo nodum quamvis Herculeum dissolvat; Nos eam ob causam, ea quæ duximus nostro tempore utilia,  
&

& commoda, inferentes, quod ad ea conservanda, recteque interpretanda attinet, confidimus authoritati, & benignitati Episcoporum Exoniensium, successorum nostrorum, quos dicti Collegii patronos, & Visitatores relinquimus, ut illi ex sua liberalitate, & mera benignitate adducti, ac fervida charitate in *fidem Christianam* inflammati, ad hoc alvearium conservandum invigilent, ut Statuta & ordinationes dicti Collegii firmiter observentur, virtutes & disciplinæ nutriantur, possessiones, & bona spiritualia & temporalia, prospero statu floreat, jura, libertates, & privilegia defendantur & protegantur. Ea de causa liceat domino Episcopo Exoniensi, qui pro tempore fuerit & *nulli alii nec aliis*, quoties per Rectorem dicti Collegii & in ejus absentia Subrectorem, & quatuor alios ad minus ex septem maxime Senioribus Scholaribus fuerit requisitus, nec non absque requisitione ulla, de quinquennio in quinquennium, semel, ad dictum Collegium per se, vel suum Commissarium, quem duxerit deputandum, libere accedere. Cui quidem Reverendo patri ac deputato suo, (*præterea nemini*) tanquam Patrono, & *Ordinario Visitatori*, vigore præsentis Statuti, plenam concedimus potestatem, ut super omnibus & singulis particulis, & articulis in dictis Statutis contentis, ac de quibuscunque aliis Articulis, Statum, Commodum, aut Honorem, dicti Collegii concernentibus, aut quæ in dicto Collegio, aut aliqua illius persona fuerint reformanda, aut corrigenda, Rectorem, Scholares & Electos interroget, & inquirat, cogatque eorum unumquemque in virtute juramenti, & *per censuras* si opus fuerit, ad dicendum veritatem de

præmissis omnibus & singulis, etsi super eis, non fuerint specialiter requisiti, excessusque ac negligentias, crimina, & delicta quorumcunque dicti Collegii qualitercunque commissa, & in ea Visitatione comperta, secundum excessus, exigentiam, & criminis aut delicti qualitatem debite puniat & reformet, cæteraque omnia & singula faciat, & exerceat, quæ ad eorum correctionem & reformationem sint necessaria, aut quovismodo opportuna, etiam si ad privationem aut amotionem alicujus scholaris, vel electi ab eodem Collegio, Statutis & ordinationibus id exigentibus, procedere contingat. Quos quidem Rectorem, Subrectorem, Scholares, & Electos ac præterea ministros quoscunque & famulos, prædicto Domino Episcopo & suo Commissario, sed *nulli alii*, volumus & præcipimus effectualiter intendere & parere. Statuentes insuper, ut nullus in visitationibus prædictis in dicto Collegio faciendis, contra Rectorem, Subrectorem, aut alium ipsius Collegii quemcunque dicat, deponat, seu denunciât, nisi quod verum crediderit, seu de quo publica vox vel fama laboraverit, contra eundem in virtute juramenti, ab eo prius Collegio præstiti. *Ordinantes* præterea ut Dominus Episcopus Exoniensis, cum in persona propria visitare, & præmissa facere dignetur, Rector & duo Scholares ex præsentibus, maxime seniores, unam in Collegio refectionem, quadraginta Solidorum expensas non excedentem, eidem Episcopo humiliter & reverenter offerant. Commissario autem, cum præmissa fecerit, duas refectiones in Collegio vel viginti solidos, per manus Rectoris de bonis Collegii persolvi concedimus, pro



pro omnibus & laboribus & expensis in hac causa tam in itinere quam in Universitate, tempore hujus Visitationis. Itaque Dominus Episcopus quadraginta solidos, Commissarius vero viginti Solidos in uno, & eodem anno, pro actu Visitationis, *ad sumptus Collegii* non excedat, nec inceptam aliquam Visitationem, ultra duos dies proxime sequentes, aut ex causis urgentissimis & rarissimis, ultra tres dies, prorogari aut continuari ullo pacto volumus. Sed lapso, & acto illo biduo, & quando ex causis prædictis ulterius prorogatur, triduo transacto, eo ipso Visitatio illa pro terminata & dissoluta habeatur. Et si quæ in ea comperit corrigenda & reformanda, quæ brevitatem temporis corrigere & reformare non potuerit, ea Rectori in scriptis tradat, qui ea omnium secundum formam & exigentiam Statutorum sine dilatione, quantum in eo erit, corrigere & reformare tenebitur, sub pœna contemptus. Prædictorum quoque Reverendorum patrum Exoniensium Episcoporum & Commissariorum suorum quorumcunque conscientias apud altissimum, quantum possumus, gravius oneramus, ac in visceribus Domini nostri Jesu Christi hortamur, & obsecramus, ut in faciendo & exequendo præmissa secundum Apostoli doctrinam, non quærant quæ sua sunt, sed quæ Jesu Christi, solumque Deum habentes præ oculis mentis, favore, timore, odio, prece, aut pretio, coloribus & occasionibus postpositis quibuscunque, inquisitionis, correctionis & reformationis officium diligenter impendant, & fideliter in omnibus exequantur, sicut coram Deo in ejus extremo judicio in hoc casu voluerint reddere rationem. Statuimus præterea,

ut Rector, Subrector, Scholaris; aut alius quispiam cujuscunque sortis dicti Collegii, super excessibus vel delictis, in visitationibus & inquisitionibus per dictum Episcopum Exoniensem vel ejus Commissarium, ut præmittitur, faciendis, accusatus vel detectus, copiam compertorum, vel detectorum hujusmodi sibi tradi, edi, dari, ostendi, aut nomina detegentium vel denuntiantium sibi exponi aut declarari nullo modo petat; neque ipsa comperta & detecta, aut nomina detegentium tradantur eidem aut ostendantur; sed super eisdem compertis, aut detectis, statim coram ipso, Domino Episcopo, vel ejus Commissario personaliter respondeat, ac correctionem debitam subeat pro eisdem secundum nostrarum Ordinationum, & Statutorum exigentiam & tenorem, cessantibus quibuscunque provocationibus appellationibus, querelis, & aliis juris, & facti remediis, per quæ ipsius correctio & punitio differri valeat, seu alias quovismodo impediri. Si tamen ad privationem aut inhabilitatem Rectoris aut Expulsionem Scholaris alicujus, per Episcopum aut ejus Commissarium agatur, tum ostendantur ei detecta, quibus si non poterit rationabiliter, & honeste respondere, suamque innocentiam probabiliter ostendere, & sese super objectis juste purgare, amoveatur sine appellatione aut ulteriore remedio, dummodo ad ejus Expulsionem concurrat consensus Rectoris, & trium ex septem maxime senioribus Scholaribus tunc in Universitate præsentibus, sine quorum consensu, irrita sit hujusmodi expulsio, & nulla ipso facto. Et insuper, si contra Rectorem ad amotionem ab officio, per hujusmodi Domini Episcopi Commissarium, etiam consentientibus

fentientibus quatuor ex septem maxime senioribus supradictis, procedatur, non negamus ei omnes exceptiones, defensiones iustas & honestas apud ipsum Dominum Episcopum Exoniensem, *dummodo ulterius non appellet*, non obstante hac ordinatione prædicta, aut aliis quibuscunque.

6 *The Deposition of Rob. Harding Cook, concerning the Sale of Offices by Dr. Bury with the Bond annex'd.*

*July 25. 1690.*

**W**Hich day appear'd personally *Robert Harding* of *Islip* in the County of *Oxford* Inholder, and by vertue of his Oath, deposed that *William Harding* this Deponent's Father, was for several years before, and to the time of his Death, which happened about the Month of *May 1672*, Cook of *Exeter College* in the University of *Oxford*, and after his Death, He, this Deponent, went to the Dr. to know how he should dispose of himself, and told him that he had promised to be kind to him, and thereupon he treated with him for the Place of Cooke of the said College, who told this Deponent that he should have the Place cheaper by Fifty pounds than any other Person, and thereupon they came to an Agreement, that this Deponent should pay him One Hundred and Fifty pounds, for the said Place of Cooke, and this Deponent entred into a Penal Bill in the Summ of three hundred Pounds for the payment of one hundred and fifty Pounds to the said Dr. *Bury* within a Moneth after the Date of the said Bill, and thereupon the Deponent was admitted into

into the said place, and he afterwards payed off the said Penal Bill to the said Dr. *Bury*, and had his Receipts for part of the same on the back of the said Bill which he wrot with his owne hand, and that after he had payed off the said Penal Bill, the said Dr. *Bury* delivered the same up to him, being the penal Bill hereunto annexed.

Eodem die jurat cor.  
Domino Episc.

*Robert Harding.*

**K** Now all men by these presents that I *Robert Harding* of Oxford Cook do justly owe and am indebted to *Arthur Bury* Doctor in Divinity, Rector of *Exeter* College the summe of one hundred and fifty pounds good and lawful Mony of *England*, one moneth after the Date of these presents; To the which payment well and truly to be made, I bind my Self, my Heirs, Executors and administrators in the summe of three hundred pounds of Lawful English Mony firmly by these presents: Sealed with my Seal, Given the fourth day of June in the four and twentieth year of the Reign of our Sovereign Lord King *Charles* the second &c. Anno. Dom. 1672.

Sealed and Delivered  
in the presence of

*Francis Southcote.*

*Jane Southcote.*

*Mary Southcote.*

*Robert Harding.*

*Received in part of this Bill Eighty pounds.*

*A. Bury.*

*Received more Mar. 14. 40 pounds.*

The

*Eod  
ma  
wh  
set*

The like Affidavits were made by *William New Butler*, who pay'd the Rector 170 pound for his place ; and by *Hedges the Cook*, who payd *Robert Harding* 150 pounds for Resigning the Place ; and gave 50 to the Rector for consenting to his Resignation.

7 *The Deposition of Leonard Litchfield Printer, who printed an Heretical Book call'd the Naked Gospel Published by Dr. Bury ; since Censur'd and Burnt by the Unanimous Decree of the University of Oxford.*

July 14. 1689.

**W**Hich day appeared Personally *Leonard Litchfield* of the University of *Oxford*, Printer, And deposeth, that I Printed a Book Entituled the *Naked Gospel* for *Dr. Bury*, who paid me for my Work, and told me, if any one question'd me for it, I should say that I had the Pro-Vice-Chancellor's leave he being then Pro-Vice-Chancellor as he told me, and at another time, told me he would bear me harmless. Not long after he sent for me, and said that it gave some distast, and that he would make such Alterations, as would take off the offence that it gave, after which he order'd me to Print the Sheets *H*, and *I*, and as I remember, the last half sheet, and told me that he had not dispos'd of many, and order'd me to Print of these Alterations about 400 or more, the full Number at first was 500. He also told me he intended to leave out the sheet *K*, and then to Publish it with these Alterations:

*Leonard Litchfield.*

*Eodem die* The same Mr. *Litchfield* made Oath that he verily believed what he hath here wrote down and set his hand to, is True.

H

8 A

8 *A Copy of the Statute, whereby Dr. Hern's Place is Declared void.*

*De promotione & causis deferendi Collegium.*

**S**Tatuimus, ut si quis hujus Collegii Scholaris cujuscunque status, aut conditionis, uxorem duxerit, aut matrimonium, vel sponsalia contraxerit, aut alicui obsequio, officio aut exercitio, per quod à studio in Universitate Oxoniensi, ultra unum Mensem in Anno, præter *quinquaginta dies*, superius in Statuto de Exitu ab Universitate, & venia petenda præcedente præexceptos, impediatur, se commiserit, immediate posteaquam aliquod istorum Rectori vel in ejus absentia Subrectori certo cognitum fuit, omne jus & titulum quem in hoc Collegio habuit eo ipso amittat, & ab illo primo notitiæ die, *in numero Scholarium ejusdem nunquam postea numeretur*. Si vero prædictorum Scholarium quispiam, patrimonium, hæreditatem, feodumve seculare, prebendam, aut aliud consimile, aut Annuam pensionem ad terminum vitæ duraturam ad Annuum valorem communibus Annis Decem Marcarum, ipse vel alius ad ejus usum, & commodum assequutus fuerit, tunc eum infra annum à tempore assequutionis alicujus hujusmodi hæreditatis, patrimonii, pensionis aut feodi, continue numerandum autoritate presentis Statuti, ab hoc Collegio amotum fore Statuimus ipso facto, ac postea pro non Scholari penitus haberi.

Quod si quispiam Scholarium prædictorum, *beneficium Ecclesiasticum, quod publicis, regiisve munimentis* Octo Librarum



brarum annuo valore taxatum fit, pacifice adeptus fuerit, eum per Annum unum, & non ultra, in hoc Collegio Scholarem manere permittimus: Volentes ac etiam decernentes, ut post lapsum illius anni, immediate, nisi intra Annum eundem ipsum beneficium effectualiter & *sine fraude ulla*, & absque pensione aliqua, totaliter dimiserit, *ipso facto pro non Scholare habeatur*.

- 9 A Copy of Part of an Act of Parliament Anno 30. *Car. 2.* Entituled, an Act for making Part of the Parish of St. *Martin* in the Field a new Parish, &c. whereby it is evident, that Dr. *Hern*, who is Rector of the said Parish, hath a greater Maintenance settled by Act of Parliament; and is oblig'd to a longer absence from the College, then is compatible with the Statutes of the College.

**B**E it farther Enacted by the Authority aforesaid, that the Rector and all other succeeding Rectors of the said Parish, shall have, take and enjoy, such and the like Oblations, Obventions, Mortuaries, Easter Books, and Ecclesiastical Duties, as the Vicar of the Parish Church of St. Martins now enjoyeth, which shall arise and grow due within the said Parish, and also, an Annuity or Yearly Summ of One hundred Pounds, to be Charged and Assessed upon all and every the Inhabitants, Owners and Occupiers of Lands, Houses, Tenements, and Hereditaments, or any personal Estate Rateable to the Poor, in such manner as is hereafter limited and appointed; Provided always that such Rector and Rectors shall and are hereby enjoined to Reside four parts of five in every Year in the said Parish.

10. The

# 10. *The Sentence of Deprivation pronounced against the Rector.*

**I**N Dei Nomine Amen: Nos Jonathan, permissione divina Episcopus Exon: & Collegii Exon: in Academia Oxon: Patronus, & Visitator Ordinarius, in negotio Visitationis dicti Collegii rite & legitime procedentes, inspecto toto, & integro processu in Visitatione hac nostra hactenus habito & facto, eoque diligenter recensito, de & cum consensu Ezræ Cleaveland, Gulielmi Read, Johannis Harris, & Johannis Bagwell Artium Magistrorum quatuor e Scolaribus septem maxime Senioribus dicti Collegii in Universitate presentibus, & consensus suos per manuum suarum subscriptionem significantium, Arthurum Bury S. T. P. Rectorem dicti Collegii Exon, propter ejus manifestam, & multiplicem contumaciam; & circumstantiis variis aggravatam in non submittendo se Visitationi nostræ ordinariæ; sed contumaciter se absentantem (quod quidem repetundarum & criminum aliorum enormium coram nobis detectorum, & probatorum, imo hæresis metu fecisse videtur,) Officio Rectoris dicti Collegii Exon & omnibus & singulis juribus, Commoditatibus & emolumentis, jure, & nomine, hujusmodi officii rectoris sibi quomodo competentibus sive pertinentibus privatum, & ab eodem Officio amovendum fore de jure debere pronunciamus, decernimus, & declaramus; sicque eum privamus, & amovemus per præsentem; Eundemque Arthurum Bury pro non Rectore dicti Collegii in posterum haberi, & censi volumus, & decernimus; ac Officium suum Rectoris dicti Collegii ad omnem juris effectum vacare, & vacuum esse pronunciamus; decernimus, & declaramus per hanc nostram Sententiam definitivam; sive hoc nostrum finale Decretum, quam, sive quod, ferimus; & promulgamus in his scriptis.

J. Exon.

*Exra Cleaveland.*

*Guil. Reade.*

*Joh. Harris.*

*Joh. Bagwell.*

F I N I S.

JUDICIUM & DECRETUM  
UNIVERSITATIS OXONIENSIS,

Latum in Convocatione habita

*Aug. 19. An. 1690.*



*U*M haud ita pridem prodierit infamis quidam Libellus, cui Titulus est, The Naked Gospel: qui tamen sub specioso isto Titulo Fidem primævam Sanctis semel traditam convellit, præcipua Religionis nostræ Mysteria labefactat, eumque ipsum, qui nos emit, Dominum Jesum Christum, qui est Deus in secula benedictus, non solum abnegat, sed ostentui habet: Cumque Libellum hunc, ad æternas tenebras damnandum, inaudita quadam perfidia Typis mandatum intra hanc Universitatem in lucem emissum, nuper constiterit: Itaque ad honorem Sanctæ & Individuæ Trinitatis, & ad Catholicæ Doctrinæ Veritatem in Ecclesia conservandam, porro ad tuendam, quantum in nobis est, Academiæ famam & Existimationem, quam integram illesamque omni studio conservari cupimus: Nos Vicecancellarius, Doctores, Procuratores, Magistri Regentes & non Regentes, in frequenti Convocationis Senatu, Decimo nono die Mensis Augusti An. Dom. 1690. more locoque consuetis convocati, prælectis quibusdam Propositionibus

*bus in prædicto Libro contentis, quas exscribi atque infra recitari curavimus: communibus suffragiis & unanimi omnium consensu & assensu Decrevimus in hunc modum.*

**I** *Propositiones eas omnes & singulas, (aliasque eodem spectantes brevitatis studio prætermis-  
sas) tanquam falsas, & impias, in Christianam Reli-  
gionem, & in Ecclesiam præcipue Anglicanam contu-  
meliosas, damnamus; plerasque insuper hæreticas esse  
decernimus & declaramus: Utpote quæ Sacræ Scri-  
pturæ, Fideique Catholicæ per cuncta retro Secula ab  
omnibus ubique terrarum Christianis Orthodoxis, à  
nascentis Ecclesiæ primordiis in hunc usque diem re-  
ceptæ, & inviolabiliter conservatæ, contrariantur;  
queque Decretis Conciliorum, speciatim Nicæni, om-  
nium quæ unquam extiterunt longe Celeberrimi, omni-  
que fide & acceptatione dignissimi, repugnant: quæ  
Patrum denique Scriptis adversantur, præsertim S.  
Athanasii, cujus in tuenda Christi causa fides atque  
patientia sine exemplo maxima, ubicunque prædica-  
tum fuerit Evangelium, in memoriam ejus celebra-  
bitur.*

*2 Porro à prædicti infamis Libri Læctione, alio-  
rumque ejusdem generis, qui damnatas olim Hæreses  
quasi ab Orco nuper revocarunt, Togatos omnes arce-  
mus, sub pœna Juris: simul præcipientes, & firmiter  
injungentes omnibus & singulis Prælectoribus, Tuto-  
ribus, Catechistis, aliisque quibus Academicæ Juven-  
tutis*

*tutis Institutio concredita est, ut Curæ & fidei suæ Commissos sedulo instruant & stabiliant in Primario isto, ac proinde necessario Fidei nostræ Articulo, utpote cui tanquam Basi ac Fundamento cæteri omnes innituntur; Quo docemur credere ac profiteri, Unum esse Vivum & Verum Deum, atque in Unitate hujus Naturæ Tres esse Personas ejusdem Essentiæ Potentiæ ac Aternitatis, Patrem, Filium, ac Spiritum Sanctum.*

*3 Denique supra nominatum infamem Librum in Area Scholarum nostrarum, manu infami comburendum decernimus.*

The Propositions refer'd to in the Decree.

*Pref.* That Mahomet profess all the Articles of the Christian Faith.

Whether Mahomet or Christian Doctors have more corrupted the Gospel, is not so plain by the light of Scripture, as it is by that of Experience, that the later gave occasion, Encouragement, and Advantage to the former. For when by nice and hot disputes, (especially concerning the Second and Third Persons of the Trinity) the minds of the whole People had bin long confounded, and by the then late Establishment of Image-worship, the Scandal was encreased, so that to vulgar understandings the Doctrine of the Trinity appeared no less guilty of Polytheism, then that of Image-worship did of Idolatry. ----- Then was there a tempting opportunity offered to the Impostor, and he laid hold on it, to set up himself for a Reformer of such corruptions, as were both too gross to be Justified, and too visible to be denied.

*Cap. 7. pag. 40.* The great Question concerning the Godhead of Christ is, 1. Impertinent to our Lords design. 2. Fruitless

less to the Contemplators own purpose. 3. Dangerous.

*Cap. 8. pag. 46.* Two Evangelists trace our Lords Genealogy; but as they derive it not from his real but supposed Father, so do they take two several ways, not to satisfy but to amuse us. What is this but to admonish us against Curiosity? The Pedigree of his Flesh might easily have bin, either cleared or unmentioned; Had the Evangelists bin wholly silent concerning it, We had less wondred; but that they should profess to instruct us, yet doubly disappoint us, first by deriving it from a wrong Father, and then by distracting us between two ways; what is this but to verify the Prophets description, *Who shall declare his Generation?* and what doth this so carefull concealment of his Generation according to his Humane Nature signify more plainly, than a warning against searching after the Eternal Generation of his Divinity? If it were needless (and therefore left impossible) to prove him derived from *David*, which was one of his most revealed Characters; How can it be otherwise, to understand that Generation of his, which must needs be so much the more above our Understanding, as the Nature of God is above our own.

*Pag. 48.* And might not a Heathen at this rate justify Polytheism, provided his Gods disagreed not among themselves? The Schoolmen therefore will not stand to this State of the question, but distinguish between *Person* and *suppositum rationale*; which (yet) they cannot so do, as to satisfy themselves, and therefore shelter themselves in their impregnable Fort, *Mystery*, and thence thunder upon the Adversaries both of this, and of another no less beloved *Mystery*: For they make this their Cock-argument for Transubstantiation; That since the Scripture is no less express for the One than the Other, and the Contradictions no less gross in the One than in the Other; therefore we must embrace the one as well as the other.

To this Objection of the *Romanists*, and to others of the *Unitaries*, we have found an Answer, That we must not infer from our Own Nature to God's; for that Ours is finite, and God's is infinite;



infinite; Three Persons among Us are Three Men, because they agree in one Common Nature; but the Divine Nature is not a Common One, but a Singular; and therefore Three Persons do not make Three Gods. If you understand not this, you must not wonder, or at least you must not Gainsay it; for it is a Mystery, which Reason may not pretend to fathom.

*Pag. 51.* Thus have we pointed (and only pointed) at some of the many intangling Questions, which puzzled, and divided the subtlest Wits of several Ages, and were at last decided by no other Evidence, but of Imperial and Papal authority; sufficient to silence disputes, but not establish truth. And who is he that is not discouraged from giving a Confident assent to what is this way obtruded upon his Belief.

*Cap. 9. pag. 53.* I. There is danger of Blasphemy in Examining the Silly Question (*as he calls it*) concerning the Eternity of the Godhead of Christ.

This is a second danger, That we have *no firm ground* to go upon. -----

*Pag. 54.* The only advantage of the Catholicks is long Possession, and that after Sentence ----- They have indeed so handled matters, as to hide much, and varnish all; yet even so, we may pick out enough to justify an Appeal, by observing how that Possession was first obtained, then continued, and at last settled ----- The sentence which first determined the Controversy [*in the Council of Nice*] was not by the merit of the Cause, but Interest of the Parties.

*Pag. 56.* This long and mischievous Controversy was at last settled by *Theodosius*; who having received his Instructions and Baptism from a Consubstantialist, required all his Subjects to conform to that Religion, which *Peter* the Prince of the Apostles from the beginning had delivered to the Romans, and which at that time *Damasus* Bishop of *Rome*, and *Peter* Bishop of *Alexandria* held; and that Church only should be esteemed Catholic which worshiped the Divine Trinity with equal Honour; and

and those which held the other should be called Hereticks, made Infamous, and Punished.

This therefore we may call settling the Controversy; because thenceforth all succeeding Emperors, and Bishops wrote after this Copy, and both the Parties have ever worn these Titles, which the Emperor by his Imperial power, as the unquestionable Fountain of Honor, was pleased to bestow upon them. ----- Behold now the Ground upon which one of our Fundamental Articles of Faith is Built; behold the Justice of that plea, which from such a Possession would prescribe to our Belief.

*Pag. 57. of the Interpolated Edition.* What more ridiculously silly than to build so weighty a Doctrine upon Implicit Faith in two Bishops, partial to their own Sees, whereof the One gave it Birth, and the Other, Maintenance: and what more odious than to persecute as Hereticks and Malefactors, all such as should refuse to be so grossly imposed upon.

*Pag. 57. of the first Edition.* Certainly whoever shall carefully observe how the now established Doctrine was from first to last advanced by gross partiality of the most guilty kind, and at last imposed by a Novice Emperor, upon Implicit Faith of two Bishops, of whose Sees, the one brought it into the World, and the other maintain'd it, and a new coin'd Tradition lately obtruded by the guiltier of those Sees, but unpleaded, because unheard of in those former, long and miserable times, which it might, and ought to have delivered from the Convulsions they suffered: Whoever, I say, shall Carefully observe this, and withall what foul tricks the Church of Rome used in the West, and with what ill Success in the East, whose Churches did at last more Universally embrace Arrius's opinion, than at first they condemned it; may be tempted to number the Athanasian, among the Roman Doctrines, and cannot but think it fairly dealt with, if (its boasted Possession pardoned) it be left upon the same level with the Arrian, equally unworthy not only of our Faith, but of our Study.

*Pag. 57.* If further we consider (what the Historian expressly declareth) that at the rise of this Controversy, most of the Bishops understood not it's meaning, we cannot think it necessary to Salvation, that every private Christian should believe that as an Article of Faith, which the best ages of the Church thought not worth knowing. ----- [*This upon second thoughts is thus express'd in a 2<sup>d</sup> Edition.* An opinion which so many wise and good Men as lived within 300 years after Christ, were so far from believing matter of Faith, that they did not receive it as matter of Certainty, nor perhaps of Credibility. *pag. 59.*]

*Pag. 58.* The Athanasians abhor Polytheism, no less than do the Arrians. If their Positions seem to infer it, they deny the consequence; if this contradict the rules of reasoning, they avow it; for they allow Reason no hearing in Mysteries of Faith: if this make them Hereticks, it is not in Religion, but in Logick.

On the other side the Arrians profess to believe of Christ whatever himself, or his Apostles have spoken; and where one expression in Scripture seemeth to contradict another, they take such a Course to reconcile them, as the Laws and Customs of all the World direct. It is very frequent for Rhetorick to exceed, but never to diminish the Grammatical Character of a Person, whose honour the Writer professeth to advance: and upon this account they think it more reasonable, that those Expressions which exalt our Saviors Person to an Equality with the Father, should stoop to those which speak him Inferior; than that those which speak him Inferior should be strained up to those which speak him Equal. And however, this is the safer Way; since it will lead us to such a Belief, as will suffice for that end, for whose sake alone Belief it self is required.

*Pag. 70.* To this Question, Whether any promise of God does necessarily import a restitution of the same numerical matter?

*He answers,* That the Words of St. Paul; *Thou fool, that which thou sowest &c.* plainly deny the Resurrection of the same numerical particles.

*Pag.*

*Pag. 70. To another Question, Whether it be more honorable to God, and more serviceable to the design of the Gospel, that we believe the Contrary?*

*He answers, That it is the same, as to ask, Whether it be more honorable to save all his Perfections, or to robb one that we may cloath the other.*

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